

**OCCIDENTAL COLLEGE
RESOLUTION OF THE DEPARTMENT
OF EDUCATION, OFFICE FOR CIVIL
RIGHTS COMPLAINT**

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THE COMPLAINT

Complaint alleged that College violated Title IX by not responding adequately to students' complaints of sexual assault.

Examples -- complaint alleged that College:

- discouraged survivors from coming forward;
- retaliated against advocates and students who made complaints;
- did not handle complaints promptly and equitably; and
- did not properly punish students found responsible for sexual assault.

THE INVESTIGATION

- Process took approximately 3 years.
- **The College has not seen the complaint.** (Received notice in May 2013 and learned of general allegations.)
- OCR site visits to Occidental.
 - Interviewed students, faculty, staff/administrators and student focus groups.
 - Reviewed documents (e.g., case files, policy and training materials).
 - 2013-2016 College provided additional documents and other information as requested by OCR.

THE INVESTIGATION

- OCR investigated *both systemic and specific* complaints:
 - Reviewed every sexual assault case filed from 2010-2014;
 - Reviewed College's response to informal reports of sexual assault; and
 - Reviewed College's response to anonymous reports.
- Provided technical assistance on policy revisions in February and May 2016.

THE COMPLAINT RESOLUTION PROCESS

- OCR proposed Resolution Agreement in May 2016.
- College signed Resolution Agreement on June 8, 2016.
- College received OCR's Findings on June 9, 2016 (on the same day that they were released to the public).
- *NB: These findings do not resolve the separate Clery complaint/investigation.*

THE FINDINGS -- OVERVIEW

- OCR reviewed all sexual misconduct cases resolved by the College from 2010-2014 and found that the College provided a prompt and fair resolution.
- The OCR did find that 3 cases in 2012-13 took too long to resolve, but concluded that the case delays did not result in an inequitable response and did not create a hostile environment.

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

- The College disseminated a notice of non-discrimination on the basis of sex.
- The College appointed and disseminated information with respect to a Title IX Coordinator.
- The College adopted procedures *that as written* provide for a prompt and equitable response to sexual harassment and violence complaints and reports.

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Sanctions

Allegation: The College improperly reduced sanctions on appeal. (p. 18.)

Finding: *“In the two instances where the respondents’ sanctions were reduced after appeal, the evidence showed that the College was attempting to balance the due process rights of the respondent with the rights of the complainant; the complainant was notified and given an opportunity to provide input. The modified sanctions were still within College guidelines. ... OCR did not find evidence that respondents’ use of the appeal process resulted in unwarranted reductions in sanctions.”* (p. 20.)

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Sanctions

Allegation: The College only assigned educational sanctions, such as book reports, in sexual assault cases. (p. 18.)

Finding: *“The evidence did not show that only educational remedies were applied in any sexual misconduct cases; rather they were just one of several sanctions.”* (p. 20.)

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Sanctions

Allegation: College allowed student-rapists to return to campus and victimize other students. (p. 20.)

Finding: *“OCR investigated each of the four cases and found that while the College was investigating incidents, additional victims would step forward about incidents that occurred prior to the first complaint that was filed.”* (p. 20.)

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Interim Steps

Allegation: The College failed to take interim steps to protect complainants before the final outcome of the investigation. (p. 17.)

Finding: *“Throughout this file review, OCR ... found that interim measures were provided to complainants, including interim suspension for respondents as to all or some educational programs and activities, changes in academic living situations, counseling and support, and issuance of no-contact letters.”* (p. 12.) No evidence that interim measures were not provided. (p. 18.)

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Discouraged Complaints

Allegation: College staff discouraged students from filing complaints. (p. 22.)

Finding: “[N]one of the students provided, and OCR was unable to identify, any specific examples of situations where College staff discouraged the filing of formal complaints.” (p. 22.)

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Retaliation

Allegation: College engaged in retaliatory conduct against students and faculty who advocated for changes in the College's sexual misconduct policy. (p. 25.)

- Faculty members associated with an on-campus advocacy group were asked to have their College-issued computers scanned during the OCR and Clery investigations. (p. 26.)
- Students who worked as student employees on campus were subjected to adverse actions because of their advocacy. (p. 27.)

THE FINDINGS: PROVIDING A MORE COMPLETE PICTURE

FINDINGS: Retaliation (cont.)

Finding:

- *“The evidence did not show that the request for the computer information substantially affected or disadvantaged faculty members. They were not deterred from pursuing further protected activity; OCR confirmed that they continued to advocate and advise students. [In any event]..., the College provided a legitimate non-retaliatory reason for the action,” namely, to respond to the OCR and Clery investigations. Moreover, the faculty experienced no adverse impact on their employment, or their roles as advocates.” (p. 27.)*
- *“Overall OCR concluded that there was insufficient evidence to establish that staff at the College subjected individual students to unlawful retaliation but the cases raise concerns as to whether College staff understand the definition of protected activity and that their responses can have an impact on whether students feel comfortable advocating ... and reporting complaints.” (p. 28.)*

CONCERNS

- **Retaliation:** Whether employees understand the meaning of protected activity and retaliation. (p. 28.)
- **Campus climate:** Although “OCR found no direct or indirect expressions of the College administration failing to address sexual misconduct, or expressions of negativity towards complainants of sexual misconduct, ... the survey results and Clery data raise concerns ... that more prevention and education training must be provided ... to ensure that students ... come forward and report.” (p. 25.)
- **Timing:** “OCR’s file review raised a concern that some ... complaints are being or have been resolved in more than 60 days without adequate justification. ... OCR found a violation with respect to three cases ... due in large part to staffing vacancies ... and [when] the Title IX officer was out on medical leave and no one assumed her responsibilities.” (p. 15-16.)

THE RESOLUTION AGREEMENT

Purpose of the Agreement -- to address concerns, ensure continuing compliance and student safety. The resolution agreement requires Occidental to:

- Continue annual student climate surveys;
- Develop and administer annual faculty and staff climate survey;
- Continue annual review of complaints and timelines for resolution; and
- Continue and expand the mandatory Title IX annual training for faculty and staff to include retaliation.

MOVING FORWARD AS A COMMUNITY

- Commit to addressing sexual violence in a collaborative environment;
- Review the findings and resolution agreement (p. 12);
- Attend training;
- Complete climate survey to be administered in November 2016;

MOVING FORWARD AS A COMMUNITY

- Identify ways to participate.
 - be an informed community member;
 - serve as advisor;
 - serve on review panel or committee;
 - ask questions;
 - raise concerns.

INFORMATION ABOUT THE OCR PROCESS AND THE COLLEGES RESPONSES TO SEXUAL VIOLENCE

How the Office for Civil Rights handles complaints:

<http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>

QUESTIONS?